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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,105	01/11/2001	Robert C. Dorr	1420/6(a)	1837

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EXAMINER

RHODE JR, ROBERT E

ART UNIT PAPER NUMBER

3625

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/759,105

Applicant(s)

DORR, ROBERT C.

Examiner

Rob Rhode

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 7-20-04 amended claim 10 and cancelled claim 11 as well as traversed rejections of Claims 1 – 10 and 12 - 19.

Currently, claims 1- 10 and 12 - 19 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 10 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. For example, the applicant calls out "determining in the computer of the bidder the processor time left for said item in said on-line auction based on processor time to the comparing step and said obtained auction time left". In that regard, it is not clear nor does the specification describe in such way as to enable one skilled in the art to enable and/or make technically the - "determining". The specification at page 1, line 8 states to "accurately determine". However, the word determining does not occur at all in

the rest of the specification, which does not in any fashion meet the test of providing any understanding of the underlying techniques as well as technology to enable the method step of "determining". While the applicant did provide in their response definitions of the words "comparing" as well as "determining", these definitions other than indicating the claimed invention is obvious are not sufficient. Thereby, the specification and the disclosure as well as the newly provided definitions are still not suffice in providing the "how" the "determining" is executed. Of note, the applicant in the specification at page 6, line 28 - 29 does state that "the present invention in stage 430 would set the time of the user's computer to the official time so as to place the user's computer in sync with the official time of the on-line auction" and thereby from the examiner's understanding the "determining" is achieved.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 10 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1 for example, the word "determining" is a relative word, which renders the claims indefinite. The word "determining" is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the word

“determining” will be treated as equating to “syncing of the user’s computer with the a tone/data signal provided by a second source such as an auction site or other device capable of transmitting a tone/data signal for synchronization purposes.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hess (US 6,058,417) in view of Schreurs (US 5,465,277).**

Regarding claim 1 and related claims 1, 10 and 19, Hess teaches a method for displaying time left for an on-line auction of an item conducted by an on-line auction service in a computer of a bidder, said method comprising the steps of: obtaining the official auction time for said on-line auction in the computer of the bidder from said on-line auction service (see at least Abstract and Col 1, line 46 and Figure 8), obtaining the auction time left for said item in the computer of the bidder from said on-line auction service (see at least Figure 9), and displaying in the computer of the bidder the processor time left for said item (Figures 8 and 9).

However, Hess does not specifically disclose and teach a method for obtaining the processor time in the computer of the bidder, comparing in the computer of the bidder the obtained processor time to the obtained official auction time, determining in the

computer of the bidder the processor time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left.

On the other hand, Schreurs discloses and teaches a method for obtaining the processor time in the computer of the bidder (see at least Abstract and Col 1, lines 53 – 65), comparing in the computer of the bidder the obtained processor time to the obtained official auction time, determining in the computer of the bidder the processor time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left (Col 1, lines 53 – 65 and Col 7, lines 16 - 28 ). Please note that Schreurs dose not specifically disclose auctions.

However, Schreurs does disclose a comparator, which compares the signal from a local clock with a second digital/data signal from a second clock. For example and as taught by the method of Schreurs, the method receives from a second and separate source clock a tone/data signal and using a comparator compares the two and through a “determining” process synchronizes to the second signal. In that regard, the method of Schreurs synchronizes the local clock with the signal/tone sent by the method of Hess and thereby displaying the correct auction time remaining of Hess. Therefore, one of ordinary skill would have been motivated to extend the method of Schreurs with a digital/data signal from a second computer’s and comparing and syncing the local clock with the clock signal of Hess in order to display user’s processor time left.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method of Hess with the method of Schreurs to have enabled a method for displaying time left for an on-line auction of an item conducted by an on-line auction service in a computer of a bidder, said method comprising the steps of: obtaining the processor time in the computer of the bidder, obtaining the official auction time for said on-line auction in the computer of the bidder from said on-line auction service, obtaining the auction time left for said item in the computer of the bidder from said on-line auction service, comparing in the computer of the bidder the obtained processor time to the obtained official auction time, determining in the computer of the bidder the processor time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left, displaying in the computer of the bidder the processor time left for said item – in order to display a clock that shows time remaining in the event such as an auction. Hess discloses a method for displaying time left for an on-line auction of an item conducted by an on-line auction service in a computer of a bidder, said method comprising the steps of: obtaining the official auction time for said on-line auction in the computer of the bidder from said on-line auction service, obtaining the auction time left for said item in the computer of the bidder from said on-line auction service, and displaying in the computer of the bidder the processor time left for said item (Abstract and Figures 8 and 9). Schreurs discloses a method for obtaining the processor time in the computer of the bidder, comparing in the computer of the bidder the obtained processor time to the obtained official auction time, determining in the computer of the bidder the processor

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time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left (Abstract and Col 1, lines 53 – 65 and Col 7, lines 16 - 28). Thereby, one of ordinary skill in the art would have been motivated to extend the method of Hess with a method for obtaining the processor time in the computer of the bidder, comparing in the computer of the bidder the obtained processor time to the obtained official auction time, determining in the computer of the bidder the processor time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left. In this regard, the individual using the auction would have been provided with an easy to use and easy to initiate time display. Moreover, the individual user can trust that time remaining is displayed as current local/cpu time in order to ensure that they do not miss the closing time of the auction and possibly not be able to participate appropriately. Thereby their satisfaction will be significantly enhanced and thereby will improve the probability that they will use the auction site more often as well as recommend the online auction site to others.

**Claims 2, 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hess and Schreurs as applied to claim 1 and 10 above, and further in view of Ferguson (US 5,995,951).**

The combination of Hess and Schreurs disclose and teach substantially the applicant's invention.



However, the combination does not specifically disclose and teach wherein the step of displaying includes the step of visually counting down the time left in at least one graphical icon; wherein the graphical icon is a clock face having an indicator moving in a direction towards zero wherein zero corresponds to the end of said on-line auction.

On the other hand and regarding Claim 2 (original), Ferguson teaches a method wherein the step of displaying includes the step of visually counting down the time left in at least one graphical icon (see at least Figures 5 and 7).

Regarding Claim 3 (original) and related claim 12 (original), Ferguson teaches a method wherein the graphical icon is a clock face having an indicator moving in a direction towards zero wherein zero corresponds to the end of said on-line auction (Figures 5 and 7). Please note that Ferguson does not disclose an auction. However, Ferguson does disclose a count down clock for a time limited event such as proposal evaluation.

Moreover, Hess discloses auctions. In that regard, it would have been obvious to one of ordinary skill to extend Ferguson with auctions. In this manner, the time left for the event such as auctions or proposal evaluations can be seen in a familiar analog clock format as it counts down to the end of the event.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Hess and Schreurs with the method of Ferguson to

have enabled a method wherein the step of displaying includes the step of visually counting down the time left in at least one graphical icon; wherein the graphical icon is a clock face having an indicator moving in a direction towards zero wherein zero corresponds to the end of said on-line auction – in order to have a graphical icon, which the face of clock. The combination of Hess and Schreurs discloses a method for displaying time left for an on-line auction of an item conducted by an on-line auction service in a computer of a bidder, said method comprising the steps of: obtaining the processor time in the computer of the bidder, obtaining the official auction time for said on-line auction in the computer of the bidder from said on-line auction service, obtaining the auction time left for said item in the computer of the bidder from said on-line auction service, comparing in the computer of the bidder the obtained processor time to the obtained official auction time, determining in the computer of the bidder the processor time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left, displaying in the computer of the bidder the processor time left for said item. Ferguson discloses a method wherein the step of displaying includes the step of visually counting down the time left in at least one graphical icon; wherein the graphical icon is a clock face having an indicator moving in a direction towards zero wherein zero corresponds to the end of said on-line auction (Figures 8 and 9). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Hess and Schreurs with a method wherein the step of displaying includes the step of visually counting down the time left in at least one graphical icon; wherein the graphical icon is a clock face having an

indicator moving in a direction towards zero wherein zero corresponds to the end of said on-line auction (Figures 8 and 9).

**Claims 4 – 9 and 14 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hess, Schreurs and Ferguson as applied to claims 4 and 13 above, and further in view of Nguyen (US 6,412,021 B1).**

The combination of Hess, Schreurs and Ferguson substantially discloses and teaches the applicant's invention.

However, the combination does not specifically disclose and teach a method wherein the step of displaying includes providing a plurality of graphical icons, each of said plurality of graphical icon corresponding to a predetermined time period; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 30 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 10 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 seconds.

On the other hand and regarding Claim 4 (original) and related claim 13 (original), Nguyen teaches a method wherein the step of displaying includes providing a plurality of graphical icons, each of said plurality of graphical icon corresponding to a predetermined time period (see at least Abstract and Figures 3A and 6A). Please note that Nguyen is capable of displaying multiple icons. However, Nguyen does disclose displaying icons with a predetermined time period. Moreover, Nguyen does disclose the capability of displaying one or more (plurality) icons as required by the specific application. In that regard, it would have been obvious to one of ordinary skill in the art at the time of the event to have provided the method of Nguyen with icons displaying time left for the auction(s). In this manner, multiple auctions taking place at a site as discloses by Hess will be visible as count down clock as disclosed by Ferguson.

Regarding claim 5 and related claim 14, the recitation that "wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 minutes", such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other "a plurality of graphical icons corresponding to predetermined time periods" already disclosed by Nguyen.

Regarding claim 6 and related claim 15, the recitation that "wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 30 minutes", such recitation is given little patentable weight because it imparts

no structural or functional specificity which serves to patentably distinguish the instant invention from the other “a plurality of graphical icons corresponding to predetermined time periods” already disclosed by Nguyen.

Regarding claim 7 and relegated claim 16, the recitation that “wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 10 minutes”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “a plurality of graphical icons corresponding to predetermined time periods” already disclosed by Nguyen.

Regarding claim 8 and related claim 17, the recitation that “wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 seconds”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “a plurality of graphical icons corresponding to predetermined time periods” already disclosed by Nguyen.

Regarding claim 9 and related claim 18, Nguyen teaches a method further including the steps of: providing an icon during said on-line auction, clicking on the icon to activate the displaying of time left (Col 8, lines 33 – 34 and Col 11, lines 4 – 5). Please note that Nguyen does not disclose time left. However, Nguyen does disclose the capability to

display any type of icon such as a calendar. In addition, Ferguson discloses displaying time left. Thereby, it would have been obvious to one of ordinary skill in the art to extend the method of Nguyen with an icon displaying time left as disclosed by Ferguson.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Hess, Schreurs and Ferguson with the method of wherein the step of displaying includes providing a plurality of graphical icons, each of said plurality of graphical icon corresponding to a predetermined time period; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 30 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 10 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 seconds – in order to enable the displaying of multiple icons of a clock with different times left. The combination of Hess, Schreurs and Ferguson disclose a method for method for displaying time left for an on-line auction of an item conducted by an on-line auction service in a computer of a bidder, said method comprising the steps of: obtaining the processor time in the computer of the bidder, obtaining the official auction time for said on-line auction in the computer of the bidder from said on-line auction service, obtaining the auction time left for said item in the computer of the bidder from said on-line auction service, comparing in the computer of the bidder the obtained

processor time to the obtained official auction time, determining in the computer of the bidder the processor time left for said item in said on-line auction based on the processor time in response to the comparing step and said obtained auction time left, displaying in the computer of the bidder the processor time left for said item as well as discloses a method wherein the step of displaying includes the step of visually counting down the time left in at least one graphical icon; wherein the graphical icon is a clock face having an indicator moving in a direction towards zero wherein zero corresponds to the end of said on-line auction. Nguyen discloses a method wherein the step of displaying includes providing a plurality of graphical icons, each of said plurality of graphical icon corresponding to a predetermined time period; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 30 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 10 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 seconds (Figures 3A and 6A). Thereby, one of ordinary skill in the art would have been motivated to extend the combination of Hess, Schreurs and Ferguson with a method wherein the step of displaying includes providing a plurality of graphical icons, each of said plurality of graphical icon corresponding to a predetermined time period; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 minutes; wherein said plurality of graphical icon includes a first graphical

icon corresponding to a predetermined time period of 30 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 10 minutes; wherein said plurality of graphical icon includes a first graphical icon corresponding to a predetermined time period of 60 seconds.

### ***Response to Arguments***

Applicant's arguments filed 7/20/2004, with respect to the rejection(s) of claim(s) 1 and 19 under the 35 USC 112 rejections regarding the word compare and the 35 USC 103(a) rejections of claims 1 – 10 and 11 - 19 with regard to the Tamer and Bloomfield references have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hess, Schreurs and Ferguson references.

The applicant argues that the claims rejected under 35 USC 112 first paragraph and second paragraph with respect to the word "determining" are clearly defined by current dictionaries and therefore a person of ordinary skill in the art would understand the invention.

First, inventions are not defined by definitions of the word(s) in a claim nor in the specification. Rather, the disclosure in its entirety provides the understanding of the invention. In that regard, the applicant as noted above did not provide a definition of the word "determining" in the specification. As result and while the Examiners understand



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the computers determine "by calculating precisely", it still is not clear "how" the computer calculates the "determining" from the specification of the current invention.

The applicant argues that Nguyen does not disclose a count down clock.

Nguyen as disclosed provided the method for enabling the displaying of multiple icons as required by an application such as a count clock disclosed by Ferguson

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306**

[Official communications; including

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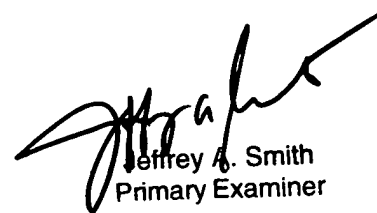
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**(703) 746-7418** [Informal/Draft communications, labeled

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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RER



Jeffrey A. Smith  
Primary Examiner